

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

-----x
:
UNITED STATES OF AMERICA, : Criminal Action No.
:
versus : 1:19-cr-334
:
XIZHI LI, et al : October 13, 2020
:
Defendant. :
-----x

The above-entitled Status hearing was heard before the
Honorable Leonie M. Brinkema, United States District Judge.

A P P E A R A N C E S

FOR THE GOVERNMENT: DAVID A. PETERS, AUSA
MARY DALY, AUSA
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, VA 22314

FOR THE DEFENDANT: JOHN C. KIYONAGA
The Law Office of John C. Kiyonaga
600 Cameron Street
Alexandria, VA 22314

OFFICIAL U.S. COURT REPORTER: MS. TONIA M. HARRIS, RPR
United States District Court
401 Courthouse Square
Fifth Floor
Alexandria, VA 22314

P R O C E E D I N G S

(Court proceedings commenced at 11:06 a.m.)

THE DEPUTY CLERK: Criminal case 19-334. United States of America versus Under Seal.

Would counsel please note your appearances for the record?

MR. KIYONAGA: Good morning, Your Honor. John Kiyonaga for Mr. Li, who is present.

THE COURT: All right.

MR. PETERS: Good morning once again, Your Honor. David Peters for the United States. I'm joined today by my colleague, Mary Daly, now with the Money Laundering and Asset Recovery Section with main Justice.

THE COURT: Good morning. All right. And Ms. Horvath, we have you here to interpret. We'll have you affirmed.

(Interpreter affirmed.)

THE INTERPRETER: I do. For the record, Maria Horvath, federally certified court interpreter.

THE COURT: Good morning.

THE INTERPRETER: Good morning.

THE COURT: All right. Mr. Kiyonaga, have you had enough time to go over the indictment yourself with your client?

MR. KIYONAGA: Yes, Your Honor. We waive formal

United States of America v. Li

3

1 reading. He reiterates his plea of not guilty and his demand
2 for a jury trial.

3 THE COURT: All right. This is a superseding
4 indictment, is it not?

5 MR. KIYONAGA: Yes, ma'am.

6 THE COURT: All right. It would be nice to have the
7 title. Maybe it is there. Yeah, it does. Okay. That's
8 fine.

9 All right. We now have, I think, most of these
10 defendants on board, is that correct?

11 MR. PETERS: Yes, Your Honor. With the assistance
12 of the court security officer, I'm passing up a motion to
13 unseal the docket and superseding indictment in this case.
14 I've provided a copy of which to the defense prior to
15 providing it to the Court. At this point, all but one
16 defendant is in custody and we feel comfortable unsealing at
17 this time.

18 MR. KIYONAGA: No objection.

19 THE COURT: All right. That's fine.

20 MR. PETERS: I'll note for the Court, for some
21 planning purposes, the only defendant currently not in custody
22 is the second defendant listed on the front page of the
23 superseding indictment, Mr. Chen.

24 At this point, Mr. Jingyuan Li and Eric Yong Woo are
25 under arrest and have been detained in the Central District of

Tonia M. Harris OCR-USDC/EDVA 703-646-1438

1 California and they're pending transfer to this district.

2 Mr. Jiayu Chen, as the Court is aware, has been
3 detained and is pending transfer from Brooklyn. We hope he'll
4 be here shortly, in conjunction with this Court's order
5 ordering his transfer.

6 And as of early this morning, late last night,
7 Mr. Tao Liu, the last defendant listed in the indictment, was
8 arrested in Guam. And he is now -- he, I believe, will have
9 already had his court appearance. I'm not aware of the
10 outcome with respect to any detention issues, although, I
11 anticipate he will be detained and we expect his transfer here
12 within the coming weeks.

13 THE COURT: Well, given the amount of travel that a
14 lot of these defendants are facing, I know with the defendant
15 from Brooklyn, I put in my order that we had to make sure that
16 he was not carrying any COVID virus with him. And so, there
17 may be a significant delay even when they get in this district
18 before they'll be brought in court. Now, those arraignments
19 can be done, if the defendants agree, the defendants have to
20 agree to this, by video.

21 MR. PETERS: Yes, Your Honor. I understand.

22 At this point, I think it's also important for the
23 Court to know or perhaps that the government tell the Court,
24 as far as I am aware, only one of the newly arrested
25 defendants has counsel for the purposes of their appearances

1 in this court. And that is, Mr. Jiayu Chen, who, as the Court
2 is aware, is represented by Ms. Renee Wong, who, I believe,
3 will be filing a pro hac application with local counsel.

4 I spoke to Ms. Wong prior to coming on the record
5 today and asked -- and informed her of the pending trial date
6 and asked if she would be comfortable moving forward on that
7 day. She asked me to represent on her behalf to the Court.
8 She didn't suggest a new trial date, but suggested that a
9 February 16th trial date, given the breadth of the discovery
10 and the fact that this is already a certified complex case, is
11 something that she would not favor and would ask for something
12 later in 2021.

13 THE COURT: Well, again, given the number of the
14 defendants who are not even here yet, we're not going to try
15 the case piecemeal, even though this defendant has been in
16 custody now a significant amount of time. Again, under the
17 Speedy Trial Act and with the overlap of these problems of the
18 virus still floating and now, unfortunately, resurging, I
19 think that we're most likely going to have to continue this
20 date beyond. And I know that, while I suspect, that we're
21 going to hear an objection from defense counsel, but maybe
22 not.

23 MR. PETERS: No, Your Honor. I've spoken to
24 Mr. Kiyonaga prior coming to court today. My understanding is
25 that he will object to a continuance of the trial date but

United States of America v. Li

6

1 understands, despite that objection, the likelihood of this
2 Court's order.

3 THE COURT: All right.

4 MR. PETERS: The last thing I would take the
5 opportunity to note for the Court at this stage, there is a
6 plea offer pending with respect to this defendant, Mr. Li.

7 THE COURT: Well, I don't want to get involved with
8 that.

9 MR. PETERS: Yes, Your Honor. We're not asking for
10 the Court to get involved, but just so the Court is aware,
11 there's a plea offer pending. I can detail the terms but that
12 offer has been on the table now since February and we expect
13 the offer to expire at the close of business on October 30th.

14 THE COURT: All right. The same detention order
15 that we've entered previously would stay in effect in this
16 case. And Mr. Kiyonaga, is there anything you want to raise?

17 MR. KIYONAGA: No, ma'am. As Mr. Peters has
18 mentioned, we would object to a continuance. Of course the
19 Court probably remembers, we wanted a date earlier than
20 February. In any event, we understand the Court will be --

21 THE COURT: Well, again, given what's going on in
22 the world right now, plus this case in and of itself is
23 complex and when you have -- it's a new superseding indictment
24 and when you have three or four defendants who are not yet
25 here, this definitely, under the Speedy Trial Act, is an

Tonia M. Harris OCR-USDC/EDVA 703-646-1438

1 appropriate case to continue beyond the 70 days.

2 So your objection is overruled and we will set a
3 trial date as soon as we can get everybody on board. And what
4 you might want to do, Mr. Kiyonaga, is start communicating
5 with the other counsel that are in the case as we start to
6 appoint counsel for these other defendants to see if you-all
7 can come up with an agreement as to a trial date in sometime
8 in the spring.

9 All right. A discovery order was entered for
10 Mr. Kiyonaga previously, correct?

11 MR. PETERS: Yes, Your Honor. I guess Mr. Kiyonaga
12 and I did not address that topic with me specifically, but I'm
13 prepared to be bound by the original discovery orders from the
14 first arraignment. We did provide him discovery. And there
15 is more, obviously, to provide, but I think we are ahead of
16 schedule with respect to any discovery issues.

17 THE COURT: Mr. Kiyonaga, any problems with the
18 discovery so far?

19 MR. KIYONAGA: No, ma'am.

20 THE COURT: All right. Very good. Anything further
21 to address?

22 MR. KIYONAGA: Nothing here, ma'am.

23 THE COURT: No. All right.

24 MR. PETERS: Nothing from the Government.

25 THE COURT: Then the defendant is remanded and we'll

recess court until 1:30.

(Proceedings adjourned at 11:14 a.m.)

CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Status hearing in the case of the **UNITED STATES OF AMERICA versus XIZHI LI**, et al, Criminal Action No.: 1:19-cr-334, in said court on the 13th day of October, 2020.

I further certify that the foregoing 9 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, March 10, 2021.



Tonia M. Harris, RPR
Official Court Reporter